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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**1:21-CV-03914**

JUDGE KENNELLY  
MAGISTRATE JUDGE COX

Charles Henry Landwer,  Plaintiff,  vs.  Realgy, LLC.,  Defendant.	Case Number: _____  Plaintiff's Complaint at Law  Jury Trial Demanded
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**PLAINTIFF'S COMPLAINT AT LAW**

NOW COMES the Plaintiff, Charles Henry Landwer, pro se, and files his Plaintiff's Complaint At Law pursuant to statutes as set forth below against the Defendant, Realgy, LLC..

In support of the Plaintiff's Complaint At Law, the Plaintiff states as follows:

**JURISDICTION AND VENUE**

- 1) This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a), 1355 and the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227(g)(2); and has pendant jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.
- 2) Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1395(a), and 47 U.S.C. § 227(g)(4). A substantial part of the events or omissions giving rise to the claims alleged in this Complaint occurred in the Northern District of Illinois.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Charles Henry Landwer,  Plaintiff,  vs.  Realgy, LLC.,  Defendant.	Case Number: _____  Plaintiff's Complaint at Law Exhibits  Jury Trial Demanded
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**EXHIBITS**

Dated: 21 July 2021

Respectfully submitted,



Charles Henry Landwer  
Plaintiff, pro se,

Charles Henry Landwer  
27W165 Schick Road  
Hanover Park, Illinois  
60133-6719  
charleslandwer@gmail.com  
312.590.8028

mail to:  
P.O. Box 91  
Streamwood, Illinois  
60107-0091

## Call one

at 11:07 CST on 17 April 2021

**Charles:** [00:00:00] Hello.

**Recorded Phone Message:** [00:00:03] Hi, congratulations. This is your official notification, since you haven't missed any electric bill payments in the last six months. Now you're eligible to get twenty to twenty five percent savings on your electric and gas bills. Please press one to get your new discounted rate.

**Charles:** [00:00:19] Charles Presses '1'

(music begins playing) [00:00:26]

**Recorded Phone Message:** [00:00:27] Your call is very important to us. Please stay on the line. You'll be transferred to the next available agent.

(music begins playing) [00:00:33]

**Speaker 1 - Daniel:** [00:00:52] Hi, my name is Daniel, how are you doing today?

**Charles:** [00:00:55] I'm doing well, who are you?

**Speaker 1 - Daniel:** [00:00:59] Ah... My name is Daniel. How are you?

**Charles:** [00:01:00] I'm good, Daniel. How are you?

**Speaker 1 - Daniel:** [00:01:03] Glad to hear. God will bless you. Well, this call is about your electricity bills in order to provide you some discounted rates and you will be get a 20 percent off on your bills from the next month. So, sir, are you getting any kind of utility assistance on your bills like paper budget billing, or do you pay them by yourself?

**Charles:** [00:01:23] No, I have to pay them, I think.

**Speaker 1 - Daniel:** [00:01:27] Perfect... And are you the account holder, or the account holder's spouse?

**Charles:** [00:01:31] Yeah, I think I'm the account holder.

**Speaker 1 - Daniel:** [00:01:35] Perfect... So let me congratulate you because you're a qualified customer to get these lower rate reductions on your same electric bills from the next month because you're not getting any help and you pay your bills on the time and you pay your bills by yourself. That's why you are eligible. So, sir, are you getting your electricity bills from Com Ed or Ameren?

**Charles:** [00:01:53] Com Ed

**Speaker 1 - Daniel:** [00:01:56] Com Ed... Perfect. So this call is very important for you. And I will helping you out to give you some better rate assistance on your bills from the next month. So if it's possible right now, would you be able to grab a copy of your Com Ed bill, so I can hold the line for you and I will helping you out to give you that assistance right now, you can take your time... find a copy of the bill and let me know when you have it.

**Charles:** [00:02:18] Ok... What are you looking for on the bill?

**Speaker 1 - Daniel:** [00:02:21] All right, I just ask you some basic information from your bill to make sure that the better rates are going to the right account to the right person. And I do not want to get any mistakes. That's why I just told you.

**Charles:** [00:02:32] OK... I have the bill.

**Speaker 1 - Daniel:** [00:02:36] Ok... You have your bill with you, which month bill do you have it handy?

**Charles:** [00:02:42] This is the month of... March... March.

**Speaker 1 - Daniel:** [00:02:50] March... OK, and sir look on your right side of your Com Ed bill, you would see a Com Ed account number.

**Charles:** [00:03:04] Um.. three eight.. three eight, three oh, five seven, four oh, two one.

**Speaker 1 - Daniel:** [00:03:13] Three eight, three oh, then

**Charles:** [00:03:15] Five seven, four zero, two one.

**Speaker 1 - Daniel:** [00:03:23] Give me a second let me check that, OK. And, sir, ah, can you provide me the name that is appear on your Com Ed bill?

**Charles:** [00:03:33] Well... can't you tell. Who. I don't know who you are? Who are you?

**Speaker 1 - Daniel:** [00:03:38] I'm calling you from the Com Ed customer choice, (unintelligible), to provide you that discounted rate on your same Com Ed electricity bills because you are a qualified person to get these better rate assistance and are you residing in 31 East, right?

**Charles:** [00:03:54] Yep.

**Speaker 1 - Daniel:** [00:03:56] OK. So, sir, please provide me the name that is appear on your Com Ed bill.

**Charles:** [00:04:06] So you work for Com Ed? I'm just trying to understand who you are.

**Charles:** [00:04:10] I'm not trying to fight with you.

**Speaker 1 - Daniel:** [00:04:11] Sir, I'm calling you from the state of Illinois services, right now due to the pandemic going on, the rates for electricity to high that's why the state of Illinois is running the promotion for those customers is not getting any help. That's why you get this call, sir. And you're not only the one customer who got this call, about ten thousand customers in Illinois getting this call every day and they are all happy to get these discounted rates on their bills. Do you have the bill right now? And I'm telling you how much. Yes... and I was just telling you how much you're paying right now and how much I am offering. So, look on, just send over the page.

**Charles:** [00:04:53] Ok, I'm here... to turn over the page.

**Speaker 1 - Daniel:** [00:04:57] Ok, you will see a supply section, right?

**Charles:** [00:05:00] Yes.

**Speaker 1 - Daniel:** [00:05:02] In the supply you will see a per kilowatt hour rate, how much you paying right now?

**Charles:** [00:05:09] Ah... the watt hour rate, the wha... wha... what did you call it? the supply?

**Speaker 1 - Daniel:** [00:05:14] Yeah

**Charles:** [00:05:16] I am paying... it's awful small, fiv... point zero five one seven oh.

**Speaker 1 - Daniel:** [00:05:24] Ok, I was just offering you only 4.5 cents per kilowatt hour, that means we bill be lower from the next month and you will save some money and you have qualified for another benefit on your bill. You would see a delivery. Just look below. You would see a customer charge, right?

**Charles:** [00:05:42] Yes, I see delivery.

**Speaker 1 - Daniel:** [00:05:45] You would see a customer charge?

**Charles:** [00:05:47] Yes.

**Speaker 1 - Daniel:** [00:05:49] How much is that?

**Charles:** [00:05:50] Eleven, forty seven.

**Speaker 1 - Daniel:** [00:05:53] Yes, eleven dollars and forty-seven cents, it's a per-month rate, but now we are just dropping it down to only three dollars and seventy five cents, per month, OK?

**Charles:** [00:06:02] OK.

**Speaker 1 - Daniel:** [00:06:05] Ah, and your bill will be lower and you'll save some money. So please verify me the name that is appear on the bill.

**Charles:** [00:06:13] I'm... I'm afraid to give you my name, you called me, shouldn't you have my name.

**Speaker 1 - Daniel:** [00:06:18] Sir, I want to just ask you from your side. It's important by the state of Illinois services.

**Charles:** [00:06:27] The state of Illinois services. That's who you are. You're with the state of Illinois, then? I didn't know that.

**Speaker 1 - Daniel:** [00:06:32] Yes... Yes.

**Charles:** [00:06:33] You are with the state.

**Speaker 1 - Daniel:** [00:06:34] I'm calling you from. I'm calling you from the state of Illinois services to give you a beneficial rate on your same Com Ed bill.

**Charles:** [00:06:44] Do you work for the state?

**Speaker 1 - Daniel:** [00:06:46] Yes.

**Charles:** [00:06:47] Oh, OK... yeah, Charles Henry, H-E-N-R-Y.

**Speaker 1 - Daniel:** [00:06:53] Charles Henry, right?

**Charles:** [00:06:55] Yes.

**Speaker 1 - Daniel:** [00:06:59] Charles Henry, OK... I think I had a conversation with you, give me a minute. I was providing you some lower rate as well because of that, if you just provide a five cents rate. Ah... so I think I was providing your last time. Give me a minute, OK? So sir, can you verify me a service address?

**Charles:** [00:07:23] Yeah, 31 East Wise Road.

**Speaker 1 - Daniel:** [00:07:28] Complete, include city, state and zip code.

**Charles:** [00:07:30] Schaumburg, Illinois 60193

**Speaker 1 - Daniel:** [00:07:36] Give me a minute, sir, let me check. I'm just, I think I will provide you some lower rate in... in four days, like one year ago. Give me a minute, let me check that. Yes, sir. My associate was providing you. A your wife's name is Chameli Joe Henry, right?

**Charles:** [00:07:57] Yeah.

**Speaker 1 - Daniel:** [00:07:59] And your name is Charles Leroy Henry.

**Charles:** [00:08:02] Yeah.

**Speaker 1 - Daniel:** [00:08:04] and you are 80 plus old, right?

**Charles:** [00:08:06] Yeah.

**Speaker 1 - Daniel:** [00:08:07] I got it, sir. Yeah, last year I had a conversation with you and I was providing you, a, some beneficial rates, five cents per kilowatt hour you are paying right now. And you told me, right?

**Charles:** [00:08:19] Yeah.

**Speaker 1 - Daniel:** [00:08:21] Yeah... So sir, we are just dropping it down that rate right now. Ah, so there, ah, so, do you have a pen and a piece of paper, please write down your new rates you're qualified for.

**Charles:** [00:08:31] OK... go ahead.

**Speaker 1 - Daniel:** [00:08:35] OK, so your new rate that has been approved for you on your same Com Ed bill from the next month is only, forty, four point five cents per kilowatt hour from the next month up to... twenty four months... OK?

**Charles:** [00:08:51] OK...

**Speaker 1 - Daniel:** [00:08:53] And you're also qualified for a monthly service fee because right now you're paying around eleven dollars and forty-seven cents, but now we are just dropping it down to only three dollars and seventy-five cents... OK?

**Charles:** [00:09:05] OK...

**Speaker 1 - Daniel:** [00:09:07] And the (unintelligible) rate is a monthly variable and promotional for the next whole two years on your bill. That means in future it's more lower and you save more money. And it's a... a it's the guaranteed lowest rate in the market right now. And nobody will can give you more lower than that rate. OK?

**Charles:** [00:09:22] OK...

**Charles:** [00:09:25] So that's nice you work for the state of Illinois, that's nice that you, help me. I appreciate that.

**Speaker 1 - Daniel:** [00:09:30] Yes, a, we are the state authorized suppliers for the state of Illinois and the Com Ed customers choice program, OK.

**Charles:** [00:09:38] OK...

**Speaker 1 - Daniel:** [00:09:40] All right, so sir, I have one more good news for you, do you also pay for the gas as well?

**Charles:** [00:09:45] Yeah.

**Speaker 1 - Daniel:** [00:09:47] All right, a, so you get your gas bills from Nicor or Peoples gas?

**Charles:** [00:09:51] Nicor.

**Speaker 1 - Daniel:** [00:09:53] All right, do you have a copy of your Nicor bill as well, so, we also providing you a twenty percent discount on your Nicor bill as well?

**Charles:** [00:10:01] Yeah, I can find a Nicor bill.

**Speaker 1 - Daniel:** [00:10:04] Take your time.

**Charles:** [00:10:06] Here, it's right near the electric bill... OK, I got the Nicor bill.

**Speaker 1 - Daniel:** [00:10:19] All right, a, so sir, look on the middle, you will see your Nicor account number, please verify me that number.

**Charles:** [00:10:26] Ah, let's see... four, two, eight, three, zero, four, three, five, eight, nine, nine.

**Speaker 1 - Daniel:** [00:10:41] OK, let me repeat it back to you, it's four, two, eight, three, zero, four, three, five, eight, nine, nine, right?

**Charles:** [00:10:48] Yes.

**Speaker 1 - Daniel:** [00:10:53] OK, can you verify me the name that is appear on your Nicor bill.

**Charles:** [00:10:56] Same name.

**Speaker 1 - Daniel:** [00:10:59] OK, same name. What is the name?

**Charles:** [00:11:02] Charles Henry.

**Speaker 1 - Daniel:** [00:11:04] Charles Henry, and what is the service address that is appear on your

**Charles:** [00:11:10] 31 East Wise road, Schaumburg, Illinois 60193

**Speaker 1 - Daniel:** [00:11:16] Perfect, so now I do have all the information for the gas. So please write down the new lowest rate that has been approved for you for the gas as well. And because right now you're paying around the market higher rates of approximately 40 to 45 cents per ccf. But now, we are just dropping it down to only 30 cents per ccf, OK?

**Charles:** [00:11:38] OK.

**Speaker 1 - Daniel:** [00:11:40] And you also qualified for our monthly service fee, because right now you're paying around eleven dollars and forty-seven cents for the same, but now we are just dropping it down to only three dollars and seventy-five cents for the Nicor as well, OK?

**Charles:** [00:11:54] OK.

**Speaker 1 - Daniel:** [00:11:56] All right, and sir, please write down the program name. The supply name was helping you by the state of Illinois services on your Com Ed and Nicor bill. The supply name is Realgy Energy. Let me spell it out for you, R as in Robert; E as in Edward; A as in Apple; L as in Livid; G as in Great; and Y as in Yellow, Realgy Energy, you got it?

**Charles:** [00:12:20] Yeah. One more time spell it.

**Speaker 1 - Daniel:** [00:12:23] R as in Robert; E as in Edward; A as in Apple; L as in Livid; G as in Great; and Y as in Yellow, Realgy Energy, you got it?

**Charles:** [00:12:34] Got it.

**Speaker 1 - Daniel:** [00:12:37] Perfect... so now sir, a, and please write down the toll free customer services number for Realgy Energy, that is, eight, seven, seven.

**Charles:** [00:12:47] OK.

**Speaker 1 - Daniel:** [00:12:49] Three hundred.

**Charles:** [00:12:50] OK.

**Speaker 1 - Daniel:** [00:12:53] Six, seven, four, seven.

**Charles:** [00:12:55] OK.

**Speaker 1 - Daniel:** [00:12:56] You got it?

**Charles:** [00:12:57] I got it.

**Speaker 1 - Daniel:** [00:12:58] OK, can you repeat this number back to me, please?

**Charles:** [00:13:01] Eight, seven, seven, four, eight, seven, six, three, seven, seven.

**Speaker 1 - Daniel:** [00:13:07] No, no, no, no, no, it's eight, seven, seven.

**Charles:** [00:13:15] Yes.

**Speaker 1 - Daniel:** [00:13:07] Three hundred.

**Charles:** [00:13:11] Three hundred.

**Speaker 1 - Daniel:** [00:13:13] Yeah, six, seven, four, seven.

**Charles:** [00:13:14] Six, seven, four, seven... OK, I got it. Eight, seven, seven, three hundred, six, seven, four, seven.

**Speaker 1 - Daniel:** [00:13:20] OK, repeat the number.

**Charles:** [00:13:21] I got it.

**Speaker 1 - Daniel:** [00:13:22] Yes, perfect, a, sir if you have any problem, any concern in future, you call us on that number any time.

**Charles:** [00:13:29] Thank you.

**Speaker 1 - Daniel:** [00:13:31] All right, so you've got a new supplier on your same, Com Ed and Nicor bill from the next month up to twenty-four months on your Com Ed and Nicor bill, and it's will helping you out to lowering down your rates and you will be save some money. It's at the lowest rate in the market right now and you will be get a guaranteed lowest rate in the market. It's a five cent... four point five cents for the Com Ed and thirty cents for the gas. OK,

**Charles:** [00:13:55] Thank you.

**Speaker 1 - Daniel:** [00:13:57] All right, so, sir, we almost done. But we are not done yet. Just connecting your call for verification right now. And the verification it's a recording machine, sir. It's we'll ask you a few questions like your name, the account holder name and a service address. What you need to do, sir, you have to state your name, state the account holder name that is appear on your Com Ed and Nicor bill and state a complete address include City, State and the zip code. OK?

**Charles:** [00:14:21] OK.

**Speaker 1 - Daniel:** [00:14:22] Because we will send you the documents at your doorstep if you just complete this verification and we'll send you a free gift as well. If you get a document and a free gift, you will be complete the verification, OK?

**Charles:** [00:14:35] OK.

**Speaker 1 - Daniel:** [00:14:36] It's hardly take five, five to seven minutes if and then it will tell you your rates, your monthly fee and the cancellations, sir. What you need to do, you have to just reply all of the questions to be a clear yes or no. Like if you hear a beep sound like after every question, you have to say a clear yes, OK?

**Charles:** [00:14:55] Thank you.

**Speaker 1 - Daniel:** [00:14:56] It's will tell you the rates and it will tell you Realgy Energy is not your supplier and you can remain with Com Ed. That means you want to stay with Com Ed and you got one single bill from Com Ed and you will pay Com Ed. Then it will tell you we are switching higher rates plan to lower rates plan. You have to say yes and then it will tell you, um, sir, tell me, do you have any plan to move out any of the state, any of the city?

**Charles:** [00:15:21] No, probably no.

**Speaker 1 - Daniel:** [00:15:23] No, perfect. So that means you didn't pay any cancelation fee. This program has a cancellation fee of 50 dollars for those customers who are planning to move out any of the state. But it's not for you. If somebody will get like higher your rates, they will pay a cancellation fee of 50 dollars. You don't need to worry about it. OK, you have to say a clear, yes. OK?

**Charles:** [00:15:44] Thank you.

**Speaker 1 - Daniel:** [00:15:46] All right, and the rest of all the questions, is a yes, and state the information and your phone number is three, one, two, five, nine, zero, eight, zero, two, eight, right?

**Charles:** [00:15:56] Yes.

**Speaker 1 - Daniel:** [00:15:58] OK, so... if the verifier ask you, please type your phone number on the keypad, so you have to press that phone number. OK?

**Charles:** [00:16:06] Thank you.

**Speaker 1 - Daniel:** [00:16:08] All right. Sir, do not say anything in the verification is because it's a machine and say all the questions is clear, Yes, and state the information. We are doing one by one. First I'm just connecting you for the Com Ed, if you just complete the verification for the Com Ed then we will do it for the gas, OK?

**Charles:** [00:16:25] Thank you.

**Speaker 1 - Daniel:** [00:16:27] All right, so sir, do you have any questions for me? Or should I to transfer you for verification, right now?

**Charles:** [00:16:32] No, na, I, I, I don't know. I'm listening to you. I mean, that's nice that the state of Illinois does this for us. Thank you.

**Speaker 1 - Daniel:** [00:16:40] Yeah. So, sir, will complete the verification. OK... we'll send you the documents.

**Charles:** [00:16:47] Ok.

**Speaker 1 - Daniel:** [00:16:47] All right.

**Charles:** [00:16:47] Send me whatever you want, you have a good day, OK. Bye bye.

**Speaker 1 - Daniel:** [00:16:50] Oh, no sir, don't hang up.

The call terminated at 16:53

Call two

at 11:25 CST on 17 April 2021

**Charles:** [00:00:01] Hello.

**Speaker 1 - Daniel:** [00:00:03] Hello, Mr. Charles, I'm Daniel back on the line.

**Charles:** [00:00:07] Oh hi Daniel.

**Speaker 1 - Daniel:** [00:00:08] Sir, what happened while you hang up the line?  
Because I just told you, I just need your five minutes more.

**Charles:** [00:00:12] Oh, I thought you were sending me a free gift, and that was it. I didn't know, OK.

**Speaker 1 - Daniel:** [00:00:18] Sir, if you just complete the verification and veri... is verification is a very important part. If you just complete the verification, then you will be get each and everything, OK? You have to complete the verification. I'm just going to connect your call for a verification right now. Do not hang up the line. Just bear with me.

**Charles:** [00:00:36] OK.

**Speaker 1 - Daniel:** [00:00:37] For like 30 to 40 seconds and you will be next voice you will be hear It's a machine, OK?

**Charles:** [00:00:40] OK.

**Speaker 1 - Daniel:** [00:00:41] So you complete the verification, then you will be complete for the gas. Then you will be good to go, OK?

**Charles:** [00:00:49] OK.

**Speaker 1 - Daniel:** [00:00:51] So stay with me on the line, sir. Do not hang up the line.

**Charles:** [00:00:54] OK.

**Speaker 1 - Daniel:** [00:00:54] Just stay with me.

**Music Starts Playing:** [00:00:57]

**Speaker 2 - Machine:** [00:01:21] Your calling the verbatim TPV verification service, I need to verify your information and record your responses, you will be asked several questions to which I will need to receive an affirmative answer. Yes. Or the requested information. Do I have your permission to record this call?

**Charles:** [00:01:37] NO!

**Speaker 1 - Daniel:** [00:01:42] Mr. Charles,

**Charles:** [00:01:43] Yes.

**Speaker 1 - Daniel:** [00:01:45] I just told you every question is a clear Yes.

**Charles:** [00:01:49] Oh, oh, you want me to answer, Yes. Oh, ok, I'm sorry.

**Speaker 1 - Daniel:** [00:01:53] Yes,

**Charles:** [00:01:54] Oh... OK. I didn't know that.

**Speaker 1 - Daniel:** [00:01:56] Everything is a clear, Yes. And state the information, like your name, the name that is appear on your Com Ed bills is Charles Henry and state a complete address and every question is a yes. OK. Y-E-S.

**Charles:** [00:02:10] OK.

**Speaker 1 - Daniel:** [00:02:12] All right, do you understand.

**Charles:** [00:02:13] I think so, yeah.

**Speaker 1 - Daniel:** [00:02:17] Do not say I think so, do not say in the verification like that, Say only clear, Yes. Do not say, I didn't know. Do not say, OK. Do not say I

understand. Do not say... anything, OK? Say a clear, Yes. Because machine can accept only Yes, otherwise the machine can hang up on you, OK?

**Charles:** [00:02:39] Thank You.

**Speaker 1 - Daniel:** [00:02:40] And you will be not get anything. You will not be get anything if you do not complete this call. It's a very important, of this call. OK.

**Charles:** [00:02:49] Thank You.

**Speaker 1 - Daniel:** [00:02:50] It's a very important verification. So if you get us complete the verification, then you will be get each and everything. Otherwise you will not to be get anything. So if, if you want to get these discounts rates on your bills and documents and a free gift you will complete the verification with a clear Yes, response, OK?

**Charles:** [00:03:07] OK.

**Speaker 1 - Daniel:** [00:03:09] All right. Every question is a Yes. Whatever the machine says you have to say a clear, Yes. Stay with me on the line. I'm just connecting you one more time for you.

**Music Starts Playing:** [00:03:18]

**Recorded Phone Message:** [00:03:44] Verbatim TPV verification service. I need to verify your information and record your responses. You will be asked several questions to which I will need to receive an affirmative answer. Yes. Or the requested information. Do I have your permission to record this call? (Audible Beep)

**Charles:** [00:04:02] Yes.

**Recorded Phone Message:** [00:04:04] Customer, please state your name. (Audible Beep)

**Charles:** [00:04:06] Charles Henry.

**Recorded Phone Message:** [00:04:10] In choosing Realgy Energy services, you recognize you have a choice of electricity providers, Realgy is not your current supplier and that you can remain with Com Ed, do you understand? (Audible Beep)

**Charles:** [00:04:21] Yes.

**Recorded Phone Message:** [00:04:23] Please use the keypad and enter your 10 digit phone number.

**Charles is entering his phone number:** [00:04:28]

**Recorded Phone Message:** [00:04:36] The number who have entered is three, one, two, five, nine, zero, eight, zero, two, eight. If this is correct, please press one, to re-enter press two thank you. Please read the name as it appears on your Com Ed bill. (Audible Beep)

**Charles:** [00:04:54] Charles Henry

**Recorded Phone Message:** [00:04:57] And the service address, as it appears, on your Com Ed bill. (Audible Beep)

**Charles:** [00:05:01] 31 East Wise Road, Schaumburg, Illinois, 60193.

**Recorded Phone Message:** [00:05:12] And the service addresses, as it appears, on your Com Ed bill. (Audible Beep)

**Charles:** [00:05:15] 31 East Wise Road, Schaumburg, Illinois, 60193.

**Recorded Phone Message:** [00:05:22] And finally, would you prefer to receive communications about your service through electronic communications instead of U.S. mail, if so; please press one, if no, please press two.

**Charles:** [00:05:33] No.

**Recorded Phone Message:** [00:05:34] Thank you. Now, you are the legal authorized person to enroll your account in Realgy Energy Services managed price, in order to receive a direct wholesale price savings. Realgy's pricing has provided savings as compared to the utility rate which are published (inaudible) in Illinois.gov. Is this correct? (Audible Beep)

**Charles:** [00:05:53] Yes.

**Recorded Phone Message:** [00:05:55] All right, you will now be enrolled with Realgy Energy services. This will switch just the electricity portion of your bill to Realgy Energy Services as your electricity supplier for the next 24 months. So you can receive the low monthly managed price rate for all your electricity usage. This includes service match Realgy's guaranteed to be the lowest cost electricity provider. Realgy's pricing has been below Com Ed rate. For example, if your service was with Realgy during February, you would have paid six point five-six cents compared to Com Ed six point seven-one cents. Com Ed will continue to read your meter, send a monthly bill and respond to any emergency or service outage. Do I have your permission to enroll your account? (Audible Beep)

**Charles:** [00:06:37] Yes.

**Recorded Phone Message:** [00:06:40] Congratulations, you will be enrolled. Your service should start within thirty-five days, after which you will notice a couple of favorable changes, you will continue to receive one bill from Comet and Realgy Energy Services will be identified as your electricity supplier with your new low managed price rate, along with a full participation fee of three point seven-five per meter. There are no other fees. Do you understand? (Audible Beep)

**Charles:** [00:07:04] Yes.

**Recorded Phone Message:** [00:07:06] Great. Now, in order to get your service as soon as possible, do you agree to authorize Realgy Energy Services to act as your agent in switching and managing your service? (Audible Beep)

**Charles:** [00:07:16] Yes, I don't even know what that means. Yes.

**Recorded Phone Message:** [00:07:19] Service with Realgy will continue for a life term until cancelled. There is no charge to cancel within 60 days of term. If you were removed from service without canceling a termination fee of 50 dollars and final energy charges will be paused.

**Recorded Phone Message:** [00:07:39] Service with Realgy will continue for a life term until canceled. There is no charge to cancel within 60 days of term if you were removed from service without canceling a termination fee of 50 dollars and final energy settlement charges will be charged or credited back based upon market conditions. Do you understand? (Audible Beep)

**Charles:** [00:07:57] Yes.

**Recorded Phone Message:** [00:08:00] One last item, please look for your welcome letter along with a free gift in the mail. It will be sent within three days. All the terms and conditions will be written out, reconfirming what we've told you today. Please write down our toll free customer service number, it's one, eight, seven, seven, three hundred, six, seven, four, seven Realgy Energy Services wants you to know that you have ten days after you get your welcome letter to review your decision and return to Com Ed rates. Do you understand? (Audible Beep)

**Charles:** [00:08:28] Yes.

**Recorded Phone Message:** [00:08:30] Please note, it is important to understand Com Ed processes your enrollment. Once Com Ed enrolls your Realgy is sent your information Com Ed will send you notification confirming Realgy is your electricity supplier. Please do not call Realgy until you receive this notification. Realgy, like all Illinois energy marketers, is certified by the ICC and is not representing, endorsed by or acting on behalf of any utility, government or consumer group. Do you understand. (Audible Beep)

**Charles:** [00:08:59] Yes.

**Recorded Phone Message:** [00:09:02] Thank you. Your verification I.D. number is six, zero, three, four, zero, one, one, one, five, three, zero. Your verification I.D. number is six, zero, three, four, zero, one, one, one, five, three, zero. Goodbye. This recording concluded at twelve-thirty-five Eastern. April 17th, two thousand twenty-one.

**Speaker 1 - Daniel:** [00:09:37] All right, Mr., Mr. Henry, you got yourself a confirmation number for the electric.

**Charles:** [00:09:42] OK.

**Speaker 1 - Daniel:** [00:09:45] Ah..., sir we are doing for the same procedure for the gas. So stay with me on the line. I'm just connecting you, OK, for the gas. OK, Nicor Gas.

**Charles:** [00:09:54] Thank you.

**Speaker 1 - Daniel:** [00:09:56] All right. So stay with me on the line sir. I'm just connecting you. Same procedure. Answer all the question is a Yes and state the information. So stay with me on the line. Do not hang up the line. Just bear with me. Here you go.

**Music Starts Playing:** [00:10:08]

**Recorded Phone Message:** [00:10:34] (inaudible) calling the verbatim TPV verification service. I need to verify your information and record your responses. You will be asked several questions to which I will need to receive an affirmative answer. Yes, or the requested information. Do I have your permission to record this call? (Audible Beep)

**Charles:** [00:10:52] Yes.

**Recorded Phone Message:** [00:10:55] Customer, please state your name. (Audible Beep)

**Charles:** [00:10:57] Charles Henry

**Recorded Phone Message:** [00:11:01] Please use the keypad and enter your 10 digit phone number.

**Charles is entering his phone number:** [00:11:05]

**Recorded Phone Message:** [00:11:12] The number you have entered is three, one, two, five, nine, zero, eight, zero, two, eight. If this is correct, please press one, to re-enter. Thank you. Please read the name as it appears on your Nicor bill. (Audible Beep) Thank you. Please read the name as it appears on your Nicor bill. (Audible Beep)

**Charles:** [00:11:33] Charles Henry

**Recorded Phone Message:** [00:11:36] And the service addresses, as it appears, on your Nicor bill. (Audible Beep)

**Charles:** [00:11:41] 31 East Wise Road, Schaumburg, Illinois 60193.

**Recorded Phone Message:** [00:11:48] And finally, would you prefer to receive communications about your service through electronic communications instead of U.S. mail?

**Charles:** [00:11:54] No.

**Recorded Phone Message:** [00:11:55] If so please press one, if no, please press two. Thank you. Now, you are the legally authorized person to enroll your account in Realgy Energy Services managed price in order to receive savings from our lowest cost of service. Realgy's pricing has provided savings as compared to the utility rate which are published at plugs in Illinois.gov. Is this correct? (Audible Beep)

**Charles:** [00:12:20] Yes.

**Recorded Phone Message:** [00:12:23] All right, you will now be enrolled with Realgy Energy Services. This will switch just the natural gas portion of your bill to Realgy Energy Services as your natural gas supplier for the next 24 months so you can receive the low monthly managed price rate for all your natural gas usage. This includes service

match, Realgy's guaranteed to be the lowest cost natural gas provider. Nicor will continue to read your meter, send a monthly bill and respond to any emergency or service outage. Do I have your permission to enroll your account? (Audible Beep)

**Charles:** [00:12:54] Yes.

**Recorded Phone Message:** [00:12:57] Congratulations, you will be enrolled. Your service should start within thirty five days, after which you will notice a couple of favorable changes, Realgy storage program will deliver approximately 20 percent of your annual usage during the summer and winter.

**Charles:** [00:13:10] Yes.

**Recorded Phone Message:** [00:13:11] Typically, this provides 25 percent of your savings.

**Charles:** [00:13:15] Yes.

**Recorded Phone Message:** [00:13:16] You will continue to receive one bill for Nicor and Realgy Energy Services will be identified as your natural gas supplier with the new low managed price rate, along with a full participation fee of three point seventy five per meter. There are no other fees. The managed price follows changes in the wholesale market for the utility delivery point. Do you understand? (Audible Beep)

**Charles:** [00:13:36] Yes.

**Recorded Phone Message:** [00:13:41] Congratulations, you will be enrolled. Your service should start within thirty five days, after which you will notice a couple of favorable changes. Realgy's storage program will deliver approximately 20 percent of your annual usage during the summer for use in the winter. Typically, this provides 25 percent of your savings. You will continue to receive one bill for Nicor and Realgy Energy Services will be identified as your natural gas supplier with your new low managed price rate, along with a full participation fee of three point seventy five per meter. There are no other fees. The managed price follows changes in the wholesale market to the utility delivery point. Do you understand? (Audible Beep)

**Charles:** [00:14:20] Yes.

**Recorded Phone Message:** [00:14:23] Great. Now, in order to get your service as soon as possible, do you agree to authorize Realgy Energy Services to act as your agent in switching in managing your service? (Audible Beep)

**Charles:** [00:14:32] Yes.

**Recorded Phone Message:** [00:14:35] Service with Realgy will continue for a life term until cancelled. There is no charge to cancel within 60 days of term if you were removed from service without canceling, a termination fee of 50 dollars and final energy settlement charges will be charged or credited back based upon market conditions. Do you understand? (Audible Beep)

**Charles:** [00:14:54] Yes.

**Recorded Phone Message:** [00:14:57] One last item, please look for your welcome letter, along with a free gift in the mail, it will be sent within three days. All the terms and conditions will be written out reconfirming what we told you today. Please write down our toll free customer service number. It's one, eight, seven, seven, three hundred, six, seven, four, seven Realgy Energy Services wants you to know that you have ten days after you get a welcome letter to review your decision and return to Nicor rates. Do you understand? (Audible Beep)

**Charles:** [00:15:25] Yes.

**Recorded Phone Message:** [00:15:28] Please note, it is important to understand Nicor processes your enrollment. Once Nicor enrolls you Realgy is sent your information Nicor will send you notification confirming Realgy is your natural gas supplier. Please do not call Realgy until you receive this notification. Realgy, like all Illinois energy marketers is certified by the ICC and is not representing, endorsed by or acting on behalf of any utility, government or consumer group. Do you understand? (Audible Beep)

**Charles:** [00:15:57] Yes.

**Recorded Phone Message:** [00:16:00] Thank you. Your verification ID number is, six, zero, three, four, zero, one, one, one, five, three, two. Your verification ID number is, six, zero, three, four, zero, one, one, one, five, three, two. Goodbye. This recording concluded at twelve forty-two Eastern, April 17th, two thousand twenty-one.

**Speaker 1 - Daniel:** [00:16:34] All right, Mr. Henry, you got yourself a confirmation number for the gas.

**Charles:** [00:16:38] Yes.

**Speaker 1 - Daniel:** [00:16:34] Perfect... So, sir can tell me, are you the account holder or the account holder's spouse?

**Charles:** [00:16:45] No, I'm the account holder.

**Speaker 1 - Daniel:** [00:16:48] Perfect... Are you getting any kind of utility assistance like paper budget billing or do you pay them by yourself?

**Charles:** [00:16:53] We pay our self.

**Speaker 1 - Daniel:** [00:16:56] OK, and are you getting any kind of federal assistance like paper budget billing?

**Charles:** [00:17:01] You already asked me all this.

**Speaker 1 - Daniel:** [00:17:04] Yes, it said just for quality purposes. I want to ask you one more time. Say No.

**Charles:** [00:17:08] No.

**Speaker 1 - Daniel:** [00:17:10] OK. All right. And again tell if this is a single family residence home, condo or mobile home?

**Charles:** [00:17:17] Residential home.

**Speaker 1 - Daniel:** [00:17:19] OK. And can you tell me your electricity and gas bill an average amount? How much you paying on average?

**Charles:** [00:17:26] About thirty dollars for the gas and a hundred dollars for the electric.

**Speaker 1 - Daniel:** [00:17:30] UM... it's too high for your electric bill. But it's going down. OK, no problem. And as your credit score creeps to six hundred and fifty dollars. Yes or no?

**Charles:** [00:17:42] Yes.

**Speaker 1 - Daniel:** [00:17:45] OK. All right. And now. OK, I want to ask you one more thing. Are you getting your electricity bills from Com Ed or Ameren?

**Charles:** [00:17:53] Com Ed.

**Speaker 1 - Daniel:** [00:17:57] OK and which of those do you get your gas bills from?

**Charles:** [00:18:00] Nicor.

**Speaker 1 - Daniel:** [00:18:03] OK. Perfect. And Sir, can you say, I got it?

**Charles:** [00:18:07] I got it.

**Speaker 1 - Daniel:** [00:18:09] Say, I understand.

**Charles:** [00:18:11] I underr..stand, I understand.

**Speaker 1 - Daniel:** [00:18:15] OK. Say, I agree,

**Charles:** [00:18:17] I agree.

**Speaker 1 - Daniel:** [00:18:21] OK. And say OK.



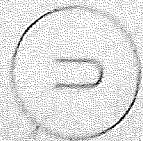
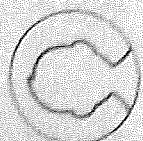
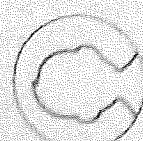
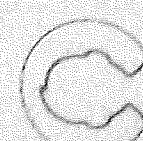




**Charles:** [00:18:23] OK.

**Speaker 1 - Daniel:** [00:18:26] All right, thank you for choosing Realgy energy as your electricity and gas suppliers, sir, and have a great day. Bye bye.

**Speaker 1 - Daniel:** [00:18:39] Alright sir, last thing say, alright.

**Charles:** [00:18:41] Alright.

The call terminated at 18:42

	 Mobile	9:06 AM
APRIL 17, 2021		
	Uncle David Mobile	8:12 PM
	(312) 570-1879 Chicago, IL	11:25 AM
	(312) 518-2152 Chicago, IL	11:24 AM
	(312) 634-5570 Chicago, IL	11:07 AM
	 Mobile	10:39 AM
		

3) The Court has federal question jurisdiction over the TCPA claims. Mims v. Arrow Financial Services, LLC, 132 S.Ct. 740 (2021).

4) The Plaintiff notified the Federal Communications Commission of this civil action.

### **PARTIES**

5) The Plaintiff is a natural person, an individual, who currently resides in the State of Illinois, domiciled in DuPage County, Illinois, with a mailing address of P. O. Box 91, Streamwood, Illinois 60193-0091.

6) The Defendant, Realgy, LLC., which operates as Realgy Energy Services, is an Illinois Commerce Commission, registered energy marketer who maintains a Main Office in the State of Connecticut at 675 Oakwood Avenue, West Hartford, Connecticut 06110-1506. The Defendant maintains four regional offices; one such office is located in Illinois at 1900 East Golf Road, Suite 950A, Schaumburg, Illinois 60173-5034.

### **The Telephone Consumer Protection Act**

7) The Telephone Consumer Protection Act, TCPA, enacted in 1991, amended the Communications Act of 1934 by adding 47 U.S.C. § 227, which requires the Federal Communications Commission ("FCC") to ... initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. . . . The regulations required by [the TCPA] may require the establishment and operation of a single national database to compile a list of telephone numbers

of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and part thereof available for purchase. If the Commission determines to require such a database, such regulations shall- ... (F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database . . . . 47 U.S.C. § 227(c)(1) and (c)(3).

8) In 1992, the FCC promulgated rules pursuant to the TCPA.

9) On June 26, 2003, the FCC revised its rules and promulgated new rules pursuant to the TCPA. These new rules established a "do not call" registry (the "National Do Not Call Registry" or "Registry") of consumers who do not wish to receive certain types of telemarketing calls. Consumers can register their telephone numbers on the Registry without charge either through a toll-free telephone call or over the Internet at [www.donotcall.gov](http://www.donotcall.gov).

10) Sellers, telemarketers, and other permitted organizations can access the Registry over the Internet at [telemarketing.donotcall.gov](http://telemarketing.donotcall.gov) to download the registered numbers.

11) A relevant FCC Do-Not-Call Rule, 47 C.F.R. § 64.1200(c), provides in part: "(c) No person or entity shall initiate any telephone solicitation [as defined in paragraph (f)(14) of this section] to ... (2) A cellular telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the Federal Government." The Do-Not-Call list is maintained at <https://www.donotcall.gov> and is available for telemarketers to check telephone numbers.

12) The TCPA itself and another relevant FCC Rule, 47 U.S.C. § 227(a)(4) and 47 C.F.R. § 64.1200(f)(14), respectively, provide in part: "The term telephone solicitation means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person ..."

13) The TCPA itself and another relevant FCC Rule, 47 U.S.C. § 227(b)(1)(B) and 47 C.F.R. § 64.1200(a)(3), respectively, provide that it is unlawful for a person to: "Initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party unless the call ... [is specifically exempted by rule or order]."

14) The TCPA, 47 U.S.C. § 227(b)(1)(A)(iii), makes it unlawful for any person to: "make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using... an artificial or prerecorded voice... to any telephone number assigned to a... cellular telephone service..." Relevant FCC Rule 47 C.F.R. § 64.1200(a)(1)(iii) similarly prohibits persons from initiating calls to a cellular telephone using an artificial or prerecorded voice without the prior express consent of the called party. Relevant FCC Rule C.F.R. § 64.1200(a)(2) further prohibits persons from initiating or causing to be initiated calls that include or introduce an advertisement or constitute telemarketing to cellular telephones using an artificial or prerecorded voice without the prior express written consent of the called party. There is no difference between a cellular based telephone or a landline based telephone when making a telemarketing telephone call. The FCC rules need to be followed so as to assure the telephone calls are being made pursuant to the Telephone Consumer Protection Act.

15) The TCPA, 47 U.S.C. § 227(d)(3)(A) and FCC Rule, 47 C.F.R. § 64.1200(b)(1), provide in part that “all artificial or prerecorded voice telephone messages shall... at the beginning of the message, state clearly, the identity of the business, individual, or other entity that is responsible for initiating the call. If a business is responsible for initiating the call, the name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority) must be stated.”

16) The TCPA itself and another relevant FCC Rule, 47 U.S.C. § 227(e)(1) and 47 C.F.R. § 64.1604(a), respectively, provide that it is unlawful for a person "with the intent to defraud, cause harm, or wrongfully obtain anything of value" to cause any caller identification service to transmit or display "misleading or inaccurate caller identification information."

17) Congress enacted the TCPA to prevent unsolicited calls to consumers' cellphones. "Voluminous consumer complaints about abuses of telephone technology - for example, computerized calls dispatched to private home - prompted Congress to pass the TCPA," Mims v. Arrow Fin. Servs., LLC, 132 S. Ct. 740, 744 (2012).

18) Congressional committees investigating the use of telecommunications technology found that legislation was necessary to prevent abusive calling practices and protect consumers from invasions of privacy, harassment, and economic harm. The Senate Committee on Commerce, Science, and Transportation found that "the Federal Communications Commission (FCC) received over 2,300 complaints about telemarketing calls" in the year preceding the TCPA's passage, stating *inter alia* that "unsolicited calls placed to... cellular... telephone numbers often

impose a cost on the called party (...[where, e.g.] cellular users must pay for each incoming call...)." *See* S. Report No. 102-178, 1991 U.S.C.C.A.N. 1968, 1991 WL 211220 at \*2 (Oct. 8, 1991). The House Committee on Energy and Commerce concurred, finding that "expert testimony, data, and legal analyses comprising the Committee's record, and broad support of consumers, state regulators, and privacy advocates clearly evidence that unsolicited commercial telemarketing calls are a widespread problem and a federal regulatory solution is needed to protect residential telephone subscriber privacy rights." H.R. Report No. 102-317, 1991 WL 245201 at \*18 (Nov. 15, 1991).

19) When it passed the TCPA, Congress intended to provide consumers a choice as to how callers may call them and found that "[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer." Pub L. No. 102-243, § 11. Congress also found that "[m]any consumers are outraged over the proliferation of intrusive, nuisance call," and that "the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy..." *Id.* §§ 12-13

20) The TCPA further provides an affected individual can bring an action to recover for actual monetary loss or receive five hundred (500) dollars damages for each violation, or both. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence. 47 U.S.C. § 227(g)(1). This Court, may award other ancillary relief to remedy injuries caused by the Defendants violations of the TCPA.

### Nature Of The Case

21) In an effort to promote Realgy Energy Services, energy marketing, the Defendant engaged in an especially invasive form of advertising: the transmission of prerecorded messages through unsolicited robocalls to the cellphones of individuals throughout Illinois, including Plaintiff.

22) However, as set forth in more detail below, the Defendant failed to obtain the 'called parties' prior express consent before calling them. By making these unsolicited robocalls to individuals' cellphones without the individuals' prior express consent, the Defendant has violated the Telephone Consumer Protection Act (the "TCPA"), 47 U.S.C. § 227 et seq., Illinois Business Transactions 815 ILCS 305/1 et seq., Automatic Telephone Dialers Act, (the "ACT") as well as consumers' privacy rights.

23) The Defendant knew that they were prohibited by the TCPA and the ACT from contacting consumers on their cellphones with automated and prerecorded voice calls without their prior express consent.

24) Nevertheless, in a failed attempt to circumvent the TCPA and the ACT, the Defendant did just that by utilizing computer based technology to make prerecorded voice calls to the Plaintiff promoting Realgy Energy Services, energy marketing services.

25) The Plaintiff never consented in writing, authorized, desired, or permitted the Defendant to make the prerecorded voice calls alleged herein to his cell phone.

26) By making such unauthorized prerecorded voice calls to the Plaintiff's cellphone, the Defendant caused Plaintiff actual, concrete harm, including aggravation, nuisance, intrusion upon seclusion, and invasion of his privacy.

27) Through this action, Plaintiff seeks redress for the Defendants' violations of the TCPA and the ACT and for willfully and knowingly violating Plaintiff's privacy rights.

**Defendant Realgy Energy Services Business Practices**

28) The Defendant, Realgy, LLC., which operates as Realgy Energy Services is an Illinois Commerce Commission, registered energy marketer in the business of energy marketing.

29) In an effort to generate sales leads, the Defendant initiates thousands of outbound telephone calls that deliver artificial or prerecorded voice messages ("robocalls") to residential and/or cellular telephone numbers of residents in the State of Illinois.

30) The Defendant initiates calls to residential and/or cellular lines using artificial or prerecorded voices to deliver messages without the prior express consent of the called parties.

31) The Defendant's robocall campaigns advertise energy marketing services.

32) From at least June of 2018 through early 2021, the Defendant Realgy, Inc., conducted their robocall business through a third-party provider. From January 1, 2018, to at least April 17,

2021, the Defendant Realgy, LLC., directly participated in and controlled the day-to-day operations of the third-party provider, through which they placed tens of thousands of robocalls.

33) The Defendant, in generating leads, have placed tens of thousands of abusive robocalls to the residential and/or cellular telephone numbers of consumers in the state of Illinois.

34) Although the Defendant is aware of the various federal and state telemarketing laws intended to protect the privacy of consumers from unwanted and harassing phone calls, the Defendant willfully initiate calls to consumers in disregard for such laws.

35) The Defendant initiates telephone calls using artificial or prerecorded voices to deliver messages that fail to clearly identify, at the beginning of the message, the business, individual, or other entity responsible for initiating the call.

36) In many instances, consumers who answer calls initiated by the Defendant are greeted by automated, prerecorded voice messages. For example, many of the calls Defendants initiate are related to energy marketing services, one message used by Defendants states,

"Hi, congratulations. This is your official notification, since you haven't missed any electric bill payments in the last six months. Now you're eligible to get twenty to twenty five percent savings on your electric and gas bills. Please press one to get your new discounted rate."

37) In many instances, Defendants initiate outbound telephone solicitations to telephone numbers registered on the National Do Not Call Registry or to telephone numbers registered on state-specific do-not-call registries, including those for the State of Illinois.

38) In order to continue to perpetuate their illegal conduct, the Defendant takes and/or took steps to avoid being identified, including failing to transmit accurate caller identification information. For example, the Defendant often engages in the practice of “spoofing,” whereby they knowingly transmitted misleading or inaccurate telephone numbers through the caller identification service.

39) The Defendant often replaced their actual number with a number with the same area code and prefix of the call recipient to mislead the recipient into believing the call is coming from someone local and known to the recipient. This practice is typically referred to as neighborhood spoofing.

40) The Defendant further attempted to conceal their identities by delivering robocalls that fail to accurately identify the Defendant.

#### **Facts Supporting Causes Of Action**

41) The Plaintiff registered his cellular phone number 312.590.8028 on the National Do Not Call Registry in May of 2018 and the Plaintiff recently renewed the registration in March of 2021.

42) At all times relevant, the Plaintiff, was the sole subscriber, owner and operator of the cellular phone number ending in 8028. The Plaintiff was issued the phone number ending in 8028 in April of 2018 and has maintained that phone, without interruption, since April 2018.

43) The Defendant does not sell its services directly to consumers, but rather partners with authorized third party providers.

44) The Defendant compensates the third party provider for each energy account that agrees to become a customer of the Defendant.

45) The Defendant also exercises control over these third party providers by retaining the right to discipline and terminate these relationships when a dealer veers from the phone-script or when the third party violates the Telephone Consumer Protection Act.

46) The Defendant's third party providers utilized a device to "Spoof" the phone number that was being used to contact consumers.

47) The Defendant engaged in something referred to in the telemarketing industry as "Spoofing"

Spoofing is when a caller utilizes an electronic device to deliberately falsifies the information transmitted to the calls recipients caller ID display to disguise the callers identity. The individuals who utilize these "Spoofing" devices use them to falsify the phone number from which they are calling in hope of getting the recipient of the call to answer the call. The recipients caller ID is made to appear that the call is coming from a legitimate business or government agency or other trusted source.

48) These calls were made in an attempt to sell the Plaintiff the Defendants energy services. The two phone numbers utilized to call the Plaintiff were 312.634.5570 and 312.570.1879.

49) The Defendant engaged in something referred to in the telemarketing industry as "Neighborhood Spoofing"

Neighborhood Spoofing or Neighbor Spoofing is when callers use an electronic device to deliberately transmit a reliable-looking phone number to the recipients caller ID to disguise the callers identity. The phone number might have a prefix with the call recipients area code or look like it belongs to a local business or even someone the calls recipient may know. Callers use various techniques to disguise themselves behind legitimate numbers. They can also rotate their numbers to avoid being blocked or reported. The idea is that people typically answer phone numbers from the area they live in or that they recognize. These illegal actions mean a caller has more chances to get someone on the line.

50) The Plaintiff, prior to receiving the Defendant's phone calls, was not aware of what or who the Defendant was or why the Plaintiff would be having different entities calling him. The Plaintiff was confused on the solicitation calls, often questioning the representative as to why he was calling the Plaintiff and on whose behalf he was calling the Plaintiff.

51) The Plaintiff, after speaking with the Defendant or Defendant's agents, discovered that it was trying to solicit the Plaintiff to become a customer of Realgy Energy Services. The Defendant or Defendant's agents were attempting to get the Plaintiff to switch the provider of the Plaintiff's electricity supplier and natural gas supplier.

52) The Plaintiff is unaware as to how the Defendant obtained his information, as he was not interested in changing his energy provider or acquiring the Defendant's services.

53) The Plaintiff was contacted on his cellular telephone number, 312.590.8028, by the Defendant or the Defendant's agent on 17 April 2021 at 11:07 a.m. CST.

54) The Call came from a "Spoofed" phone number, 312.634.5570, at 11:07 a.m. CST.

55) The Call began with a Recorded Phone Message, which stated:

"Hi, congratulations. This is your official notification, since you haven't missed any electric bill payments in the last six months. Now you're eligible to get twenty to twenty five percent savings on your electric and gas bills. Please press one to get your new discounted rate."

This recorded statement was false and misleading.

56) The Call continued with a live agent, "Daniel," who stated:

"Glad to hear. God will bless you. Well, this call is about your electricity bills in order to provide you some discounted rates and you will be get a 20 percent off on your bills from the next month. So, sir, are you getting any kind of utility assistance on your bills like paper budget billing, or do you pay them by yourself?"

This statement was false and misleading.

57) The Call continued with the Plaintiff asking the agent, "Daniel," "Who are you?" The agent responded with a false and untrue statement:

"I'm calling you from the Com Ed customer choice, (unintelligible), to provide you that discounted rate on your same Com Ed electricity bills because you are a qualified person to get these better rate assistance and are you residing in 31 East, right?"

The Defendant knew or should have known that this statement was false and misleading.

58) The Call continued with the Plaintiff asking the agent, "Daniel," "I'm just trying to understand who you are?" The agent responded with a false and untrue statement:

"Sir, I'm calling you from the state of Illinois services, right now due to the pandemic going on, the rates for electricity too high that's why the state of Illinois is running the promotion for those customers is not getting any help. That's why you get this call, sir. And you're not only the one customer who got this call, about ten thousand customers in Illinois getting this call every day and they are all happy to get these discounted rates on their bills. Do you have the bill right now? And I'm telling you how much. Yes... and I was just telling you how much you're paying right now and how much I am offering. So, look on, just send over the page."

The Defendant knew or should have known that this statement was false and misleading.

59) The Call continued with the Plaintiff asking the agent, "Daniel," "You are with the state?"

The following exchange occurred::

**Daniel:** Sir, I want to just ask you from your side. It's important by the state of Illinois services.

**Plaintiff:** The state of Illinois services. That's who you are. You're with the state of Illinois, then? I didn't know that.

**Daniel:** Yes... Yes.

**Plaintiff:** You are with the state.

**Daniel:** I'm calling you from. I'm calling you from the state of Illinois services to give you a beneficial rate on your same Com Ed bill.

**Plaintiff:** Do you work for the state?

**Daniel:** Yes.

The Defendant knew or should have known that these statement were false and misleading.

60) The Plaintiff was confused and didn't understand what the Defendant was attempting to sell to him.

61) The Plaintiff was confused and trying to understand who was calling him and what it was that the Defendant was talking about on the telephone. The Plaintiff, after sixteen minutes, disconnected the telephone call.

62) The Defendant quickly called back on 17 April 2021 at 11:25 a.m. CST. The Plaintiff, still confused, participated in the phone call. The phone call lasted for over eighteen minutes.

63) The Call came from a "Spoofed" phone number, 312.570.1879, at 11:25 a.m. CST.

64) The Plaintiff is unaware as to how the Defendant obtained his information, as he was not interested in changing his energy provider or acquiring the Defendant's services.

65) The Plaintiff, who suffers from a disability, was berated and harassed by the Defendant and/or its agent during the phone call.

66) The Call continued with the agent, "Daniel," telling the Plaintiff how to answer the Verification Questions. The following exchange took place between the Defendant's agent and the Plaintiff:

**Daniel:** I just told you every question is a clear Yes.

**Daniel:** Everything is a clear, Yes. And state the information, like your name, the name that is appear on your Com Ed bills is Charles Henry and state a complete address and every question is a yes. OK. Y-E-S.

**Plaintiff:** OK.

**Daniel:** All right, do you understand.

**Plaintiff :** I think so, yeah.

**Daniel:** Do not say I think so, do not say in the verification like that, Say only clear, Yes. Do not say, I didn't know. Do not say, OK. Do not say I understand. Do not say... anything, OK? Say a clear, Yes. Because machine can accept only Yes, otherwise the machine can hang up on you, OK?

**Plaintiff:** Thank You.

**Daniel:** And you will be not get anything. You will not be get anything if you do not complete this call. It's a very important, of this call. OK.

**Plaintiff:** Thank You.

**Daniel:** It's a very important verification. So if you get us complete the verification, then you will be get each and everything. Otherwise you will not to be get anything. So if, if you want to get these discounts rates on your bills and documents and a free gift you will complete the verification with a clear Yes, response, OK?

67) The Call continued further with the agent, "Daniel," telling the Plaintiff to remain on the phone call and to state verbal answers to questions that the agent, "Daniel," had the Plaintiff answer earlier in the conversation. The agent, "Daniel," stated this was required for the verification recording. The agent, "Daniel," told the Plaintiff how to answer these additional questions:

**Daniel:** Perfect... So, sir can tell me, are you the account holder or the account holder's spouse?

**Plaintiff:** No, I'm the account holder.

**Daniel:** Perfect... Are you getting any kind of utility assistance like paper budget billing or do you pay them by yourself?

**Plaintiff:** We pay our self.

**Daniel:** OK, and are you getting any kind of federal assistance like paper budget billing?

**Plaintiff:** You already asked me all this.

**Daniel:** Yes, it said just for quality purposes. I want to ask you one more time. Say No.

**Plaintiff:** No.

**Daniel:** OK. All right. And again tell if this is a single family residence home, condo or mobile home?

**Plaintiff:** Residential home.

**Daniel:** OK. And can you tell me your electricity and gas bill an average amount? How much you paying on average?

**Plaintiff:** About thirty dollars for the gas and a hundred dollars for the electric.

**Daniel:** UM... it's too high for your electric bill. But it's going down. OK, no problem. And as your credit score creeps to six hundred and fifty dollars. Yes or no?

**Plaintiff:** Yes.

**Daniel:** OK. All right. And now. OK, I want to ask you one more thing. Are you getting your electricity bills from Com Ed or Ameren?

**Plaintiff:** Com Ed.

**Daniel:** OK and which of those do you get your gas bills from?

**Plaintiff:** Nicor.

**Daniel:** OK. Perfect. And Sir, can you say, I got it?

**Plaintiff:** I got it.

**Daniel:** Say, I understand.

**Plaintiff:** I underr..stand, I understand.

**Daniel:** OK. Say, I agree,

**Plaintiff:** I agree.

**Daniel:** OK. And say OK.

**Plaintiff:** OK.

**Daniel:** All right, thank you for choosing Realgy energy as your electricity and gas suppliers, sir, and have a great day. Bye Bye.

**Daniel:** Alright sir, last thing say, alright.

**Plaintiff:** Alright.

### **Causes Of Action**

#### **Count One**

##### **Violating the National Do Not Call Registry**

68) The Plaintiff incorporates by reference the foregoing allegations as though fully set forth herein.

69) The Plaintiff registered his phone number on the National Do Not Call Registry in May of 2018 and recently renewed the registration in March of 2021.

70) The Defendant violated 47 C.F.R. § 64.1200(c)(2) and 47 U.S.C. § 227(c) by engaging in a pattern or practice of initiating telephone solicitations to residential telephone subscribers, including subscribers in Illinois whose telephone numbers were listed on the National Do Not Call Registry. One such subscriber in Illinois who was listed on the National Do Not Call Registry is the Plaintiff.

71) The Defendant's violations are willful, wanton and knowing.

**Count Two**

**Violating the Prohibition against the Use of Artificial or Prerecorded**

**Voices to Cellular Telephone Lines**

72) The Plaintiff incorporates by reference the foregoing allegations as though fully set forth herein.

73) The Defendant violated 47 C.F.R. § 64.1200(a)(1)(iii) and 47 U.S.C. § 227(b)(1)(A)(iii) by engaging in a pattern or practice of initiating telephone calls to cellular telephone lines, including lines in Illinois, using artificial and prerecorded voices to deliver a message without the prior express written consent of the called party and where the call was not initiated for emergency purposes or exempted by rule or order of the Federal Communications Commission under 47 U.S.C. § 227(b)(2)(B).

74) The Defendant violated 47 C.F.R. § 64.1200(a)(2) by engaging in a pattern or practice of initiating telephone solicitations to cellular telephone lines, including lines in Illinois using artificial or prerecorded voices to deliver a message relating to energy marketing services without the prior express written consent of the called party, the Plaintiff. These violations were performed against the Plaintiff without just cause.

75) The Defendant engaged in a pattern or practice of initiating telephone solicitations to cellular telephones.

76) The Defendant's violations are willful, wanton and knowing.

**Count Three**

**Violating the Prohibition against**

**Misleading or Inaccurate Caller Identification Information**

77) The Plaintiff incorporates by reference the foregoing allegations as though fully set forth herein.

78) Defendants **violated 47 C.F.R. § 64.1200(b)(1) and 47 U.S.C. § 227(d)(3)(A)** by initiating telephone calls to cellular telephone lines using artificial or prerecorded voices to deliver messages to residents in the state of Illinois that failed to clearly state, at the beginning of the message, the identity of the business, individual, or other entity responsible for initiating the call.

79) The Defendant's violations are willful, wanton and knowing.

**Count Four**

**Violating the Prohibition against**

**Misleading or Inaccurate Caller Identification Information**

80) The Plaintiff incorporates by reference the foregoing allegations as though fully set forth herein.

81) Defendants **violated 47 C.F.R. § 64.1604(a) and 47 U.S.C. § 227(e)(1)** by engaging in a pattern or practice of initiating telephone calls and, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly caused, directly or indirectly, caller identification services to transmit or display misleading or inaccurate caller identification information to residents in the state of Illinois.

82) The Defendant's violations are willful, wanton and knowing.

**Violations Of The State Of Illinois Laws**

**Count Five**

**Violations Of The Illinois Automatic Telephone Dialers Act**

**815 ILCS 305/1 *et seq***

83) The Plaintiff incorporates by reference the foregoing allegations as though fully set forth herein.

84) The Plaintiff is a "Subscriber" as defined by 815 ILCS 305/5(e)(1) of the Automatic Telephone Dialers Act.

85) The Defendant's employed an "Autodialer" or "Autodialer System" as defined by 815 ILCS 815 ILCS 305/5(a).

86) The Automatic Telephone Dialers Act States:

"No person shall operate an Autodialer in this State to place a telephone call during the hours between 9 p.m. and 9 a.m. All Autodialers operated within the State of Illinois shall disconnect within 30 seconds after termination of the call by the subscriber or the Autodialer. Where disconnection in 30 seconds is technically not feasible, the Autodialer shall utilize a live operator who shall: state his name, the name, address and telephone number of the business or organization being represented and the purpose of the call; and inquire at the beginning of the call whether the person called consents to hear the prerecorded message. An Autodialer shall not be used to dial numbers determined by successively increasing or decreasing integers. An Autodialer may not be operated in a manner that impedes the function of any caller ID when the telephone solicitor's service or equipment is capable of

allowing the display of the solicitor's telephone number." (815 ILCS 305/15)

- 87) The Defendant violated 815 ILCS 305/15, the Automatic Telephone Dialers Act, by employing an Autodialer in contacting the Plaintiff.
- 88) The Automatic Telephone Dialers Act was designed to protect consumers, such as the Plaintiff, from the exact behavior committed by the Defendant.
- 89) The Automatic Telephone Dialers Act further states:
- "It is a violation of this Act to play a prerecorded message placed by an Autodialer without the consent of the called party. Enforcement by customer. Any customer injured by a violation of this Act may bring an action for the recovery of damages. Judgment may be entered for 3 times the amount at which the actual damages are assessed, plus costs and reasonable attorney fees. In addition to the damages authorized... a consumer may obtain statutory damages in the amount of \$500 per violation. (815 ILCS 305/30(c-5))
- 90) The Defendant's violations are willful, wanton and knowing.

**Count Six**

**Violations Of The Illinois Telephone Solicitations Act**

**815 ILCS 413/1 *et seq***

- 91) The Plaintiff incorporates by reference the foregoing allegations as though fully set forth herein.
- 92) The Plaintiff is a "Subscriber" as defined by 815 ILCS 413/5(1) of the Telephone Solicitations Act.

93) The Statute defines the "Caller ID" as the display, to the recipient of the call, of the caller's telephone number or identity. 815 ILCS 413/5

94) The Defendant's employed a "device" or "mechanism" to conceal the real and true phone number from which the Defendant was calling. This technique is commonly called "Spoofing," the Defendant went further and engaged in "Neighborhood Spoofing." This practice is prohibited by 815 ILCS 413/15(c).

95) The Telephone Solicitations Act further states:

"A person may not solicit the sale of goods or services by telephone in a manner that impedes the function of any caller ID when the telephone solicitor's service or equipment is capable of allowing the display of the solicitor's telephone number." 815 ILCS 413/15(c).

96) The Defendant's violations are willful, wanton and knowing.

#### **Count Seven**

#### **Violations Of The Illinois Consumer Fraud and Deceptive Business Practices Act**

#### **815 ILCS 505/1 *et seq***

97) The Plaintiff incorporates by reference the foregoing allegations as though fully set forth herein.

98) The Plaintiff is a "person" and "consumer" as defined by 815 ILCS 505/1(c) and (e) of the Illinois Consumer Fraud and Deceptive Business Practices Act.

99) The Defendant engages in "telemarketing" as defined by 815 ILCS 505/2P.1(a) of the Illinois Consumer Fraud and Deceptive Business Practices Act.

100) The Illinois Consumer Fraud and Deceptive Business Practices Act states:

“Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact . . . in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.” 815 ILCS 505/2.

101) The Defendant violated 815 ILCS 505/2 by engaging in unfair and deceptive acts and practices in contacting Plaintiff.

102) The Defendant violated 815 ILCS 505/2CC by engaging in deceptive acts and practices in alleging they were selling a particular article of merchandise at a wholesale price to the Plaintiff.

103) The Defendant violated 815 ILCS 505/2EE by engaging in deceptive acts and practices in their offering of Alternative Retail Electric Supplier services.

104) The Defendant violated 815 ILCS 505/2FF by engaging in deceptive acts and practices. The Defendant engaged in Fraud on a victim who is a "Person with a Disability" as defined in 815 ILCS 505/2FF(2).

105) The Defendant violated 815 ILCS 505/2DDD by engaging in deceptive acts and practices in their offering of Alternative Gas Supplier services.

106) The Defendant's violations are willful, wanton and knowing.

**Request For Relief**

WHEREFORE, Plaintiff, Charles Henry Landwer, requests that the Honorable Court enter an order and judgment as follows:

- A. Awarding of actual, statutory, and if appropriate, treble damages;
- B. Awarding reasonable costs;
- C. Awarding such other and further relief that the Honorable Court deems reasonable and just.

**Jury Demand**

Pursuant to Rule 38(b), Plaintiff hereby demands trial by jury on all claims and issues so triable.

Dated: 21 July 2021

Respectfully submitted,



Charles Henry Landwer  
Plaintiff, pro se,

Charles Henry Landwer  
27W165 Schick Road  
Hanover Park, Illinois  
60133-6719  
charleslandwer@gmail.com  
312.590.8028

mail to:  
P.O. Box 91  
Streamwood, Illinois  
60107-0091